

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

RONALD MARK CLARK, et al.

PLAINTIFFS

v.

CASE NO. 4:07-CV-00477 GTE

JOHN BAKA, M.D., et al.

DEFENDANTS

ORDER

Before the Court is Defendants' Motion to Videotape Expert's Interview with Forrest Manning, Jr. ("Forrest"). Defendants request permission to videotape Dr. Asarnow's interview of Forrest during Monday's independent medical examination ("IME"). Defendants indicate that the proposed videotaped interview shall only last 10-15 minutes. Plaintiffs strenuously oppose the videotaping of any portion of the IME. If permitted to videotape this interview, Defendants indicate that they will not pursue an earlier request to depose Forrest, which Plaintiffs also opposed and filed a motion to prevent.

The Court concludes that Defendants' request is reasonable under the circumstances. In this lawsuit, Plaintiffs contend that Forrest suffers from significant brain injuries caused by Defendants' negligence and seek damages for such injuries. Defendants state that it does not appear that Forrest will take the stand at trial and that he may not even attend the trial. Plaintiffs have not suggested otherwise. It would be unfair to Defendants if they were forced to defend these allegations without any opportunity to have the jury observe Forrest interacting with others.

Defendants shall be permitted to videotape up to fifteen minutes of Dr. Asarnow's interview of Forrest. Plaintiffs' attorney and/or a medical expert of Plaintiffs' choice may elect

to be present during the videotaped portion of the interview. The Court's ruling to allow the requested videotaping during the IME is not a ruling on the admissibility of the videotape's use at trial.

IT IS HEREBY ORDERED THAT Defendants' Motion to Videotape Expert's Interview (Doc. No. 152) be, and it is hereby, GRANTED.¹

IT IS FURTHER ORDERED THAT Plaintiff's Motion to Quash Deposition of Forrest Manning, Jr. (Doc. No. 120) be, and it is hereby, dismissed as moot.

IT IS SO ORDERED this 22nd day of August, 2008.

/s/Garnett Thomas Eisele
UNITED STATES DISTRICT JUDGE

¹ The Court notes that Defendants subsequently filed a Supplement to their Motion to Videotape Expert's Interview in response to the Court's request for additional information. Although the supplement was docketed as a motion, it requests no additional relief. The Clerk is directed to terminate Document No. 155 as a pending motion.